3003-1. Filing Proof of Claim or Interest in Chapter 11 Cases ~~Under Chapters 9 and 11~~.

Unless otherwise ordered by the Court, and except as provided in Bankruptcy Rule 3003(c)(3), proofs of claim or interest shall be filed pursuant to Bankruptcy Rule 3003 and shall be filed within 90 days after the first date set for the meeting of creditors called pursuant to 11 U.S.C. § 341(a), unless the claimant is a government unit, in which case a proof of claim or interest shall be filed before 180 days after the date of the order for relief or such later time as the Bankruptcy Rules may provide.

3007-1. Objections to Claim.

(a) Copy of Claim.

Unless the Court orders otherwise, on an objection to claim, a copy of the claim, absent any attachments or exhibits, shall be included.

(b) Factual Dispute.

Where a factual dispute is involved, the initial hearing on an objection shall be deemed a status conference at which the Court will not receive evidence. Where the objection involves only a matter of law, the matter may be argued at the initial hearing. Any notice of hearing on a claim objection shall so state.

(c) Schedule for Filing Papers. B.L.R. 9014-1(b) and (c) shall apply to Objections to Claims.

4001-1. Motions For Relief From Stay.

(a) Procedure and Supporting Documents.

A motion for relief from stay, or for order confirming that no stay is in effect, shall be so titled and shall be accompanied by the declaration of an individual competent to testify which sets forth the factual basis for the motion. The motion shall describe the relief sought and shall advise the respondent to appear personally or by counsel at the preliminary hearing.

(b) Cover Sheet.

Every motion for relief from stay, or order confirming that no stay is in effect, shall be filed with a completed Relief From Stay Cover Sheet. Relief From Stay Cover Sheets shall be available in the Office of the Clerk and on the Bankruptcy Court's website.

(c) Preliminary Hearings.

Unless otherwise ordered, motions shall be set for preliminary hearing not less than 14 days after service. Motions shall be served the same day they are filed or sent for filing.

(d) Hearing Dates.

The Clerk shall make available a list of available hearing dates. It is the responsibility of the moving party to select a hearing date which satisfies the notice requirements of this rule.

(e) Oral Testimony.

Unless otherwise ordered, no oral testimony will be received by the Court at any hearing on a motion for relief from stay, or for order confirming that no stay is in effect.

(f) Response.

A respondent will not be required to, but may, file responsive pleadings, points and authorities, and declarations for any preliminary hearing.

(g) Inclusion of an Account Statement.

(1) As to motions for relief from the automatic stay wherein the movant alleges that the debtor has failed to maintain post-petition payments on an obligation, the motion shall include a post-petition account statement and a declaration attesting to the statement's accuracy. Both documents shall be written in language comprehensible to a lay person, and shall include the following information:

a. a description of the post-petition obligations that have accrued and are unpaid;

b. all payments received post-petition;

c. the date each post-petition payment was received;

d. the date each post-petition payment was posted to the subject account, if different from the date received.

If, for any reason, the timing or amount of the last payment which fell due pre-petition is different from any payments which have accrued post-petition, the moving party must briefly state the reason for the change and whether the debtor was given written notice of the changed amount.

As to defaults in post-petition payments to a Chapter 13 trustee, a printout from the Chapter 13 trustee's on-line information system itemizing post-petition payments will suffice.

(2) If the motion for relief from the automatic stay is based upon a failure to make pre-petition payments, then the requirements for an account statement referenced in paragraph (g)(1)(a) through (d) shall extend to all pre-petition obligations that have accrued and are unpaid.

(3) If a moving party fails to comply with paragraphs (g)(1) or (2) of this rule, the Court may, in its discretion, impose such monetary or nonmonetary remedies as it deems appropriate.

4001-2. Motions to Extend or Impose the Automatic Stay.

(a) Motion Required.

Any party in interest seeking to extend the automatic stay pursuant to 11 U.S.C. § 362(c)(3)(B) or to impose the stay pursuant to 11 U.S.C. § 362(c)(4)(B) must file a motion in accordance with Bankruptcy Rule 9013, thus initiating a contested matter under Bankruptcy Rule 9014.

(b) Contents.

The moving party must state whether continuation or imposition of the automatic stay is sought with respect to all creditors or only specified creditors, who must be identified by name. The moving party must also set forth facts in support of the motion, established by declarations as appropriate, showing that the filing of the present case is in good faith as to the creditors to be stayed and describing the circumstances that led to the dismissal of all prior case(s) concerning the debtor that were pending or dismissed within the past eight (8) years.

(c) Service.

Service must be on all creditors to be stayed, the United States Trustee, any trustee appointed in the case, and the debtor (if the debtor is not the moving party). Service must be in accordance with Bankruptcy Rule 7004, except as to parties who have appeared in the case (in which event Bankruptcy Rule 7005 applies) unless the court orders otherwise.

(d) Manner of Disposing of Motion.

(1) A party seeking to extend or to impose the stay may set the matter for hearing, on 14 days notice on the judge's regular relief from stay calendar, but if no hearing date which will permit 14 days notice is available within 30 days of the petition date, the moving party should comply with the judge's procedures for scheduling a special setting. For hearings on shortened time, the moving party must comply with Bankruptcy Rule 9006 and B.L.R. 9006- 1.

(2) Alternatively, the moving party may utilize the "Notice and Opportunity For Hearing" procedures of B.L.R. 9014-1(b)(3). For purposes of motions made under this rule the following time periods shall replace those set forth in B.L.R. 9014-1(b)(3):

(A) The time to object and request a hearing (B.L.R.-1(b)(3~~)(A)(i~~)) shall be 14 days;

(B) The time for the initiating party to give written notice of a hearing date (B.L.R. 9014-1(b)(3)(A~~)(iv)(a~~)) shall be 5 days;

(C) The tentative hearing date, if set in the notice (B.L.R. 9014-1(b)(3)(B)), shall be at least 7 days after the conclusion of the period for objecting parties to request a hearing; and

(D) If there is a timely objection or request for hearing, or if the assigned bankruptcy judge has required that the motion be set for actual hearing, as provided in (d)(3) below, then the time for the initiating party to file and serve notice of an actual hearing (B.L.R. 9014-1(b)(3)(B)) shall be 5 days.

(3) The assigned bankruptcy judge may require that any motion to continue or to impose the automatic stay be set for actual hearing, even if the moving party has utilized the procedures set forth in section (d)(2) hereof, and no party has objected or requested a hearing.

(e) Opposition and Hearing.

When a moving party proceeds under (d)(1), any opposition may be presented in writing, prior to or at the hearing, or orally, at the hearing. When a moving party proceeds under (d)(2), any responsive pleadings, points and authorities, and declarations for any hearing must be filed with the objection or request for hearing. The hearing on a motion to continue the automatic stay must be completed no later than 30 days after the petition date. *See*, 11 U.S.C. § 362(c)(3)(B).

4001-3. Motions for Orders Confirming That No Stay Is In Effect.

(a) Motion Required.

Any party in interest seeking an order confirming under 11 U.S.C. § 362(c)(4)(A)(ii) that no stay is in effect must file a motion in accordance with Bankruptcy Rule 9013, thus initiating a contested matter under Bankruptcy Rule 9014.

(b) Service.

Service shall be on the debtor, debtor's counsel, the United States Trustee, any trustee appointed in the case, any party who has requested notice pursuant to Bankruptcy Rule 2002(i), and in Chapter 11, the non-insider creditors that hold the 20 largest unsecured claims or the creditors' committee, if one has been appointed.

(c) Procedure.

A motion under this rule shall be governed by B.L.R. 9014-1.

(d) Applicability.

This rule shall apply only to cases filed on or after October 17, 2005.

8001~~4~~-1. Manner of Taking Appeal.

Upon the filing of a notice of appeal and a statement of election to have the appeal heard by the District court, the Clerk of the Bankruptcy Court shall forward to the Clerk of the District Court the notice of appeal, the statement of election and the docket sheet. Bankruptcy Rules 8003(d)(1) and 8005(b). If a statement of election is filed by an appellee, the notice of appeal and the statement of election will be received from the Bankruptcy Appellate Panel. In either case, the Clerk of the District Court shall immediately open a file, docket these documents and give notice to the parties of the name of the assigned District Judge and the District Court case number. Bankruptcy Rule 8003(d)(2).

800~~1~~4-2. Procedure For Challenging Bankruptcy Court's Authority to Enter Final Order or Judgment.

(a) In any instance in which the Bankruptcy Court has entered a final order or judgment and a party contends that the matter is one in which the Bankruptcy Court lacked constitutional or statutory authority to enter a final order or judgment, such party must:

(1) proceed by filing a timely notice of appeal of the Bankruptcy Court's final order or judgment; and

(2) to avoid a waiver of any right to review by the District Court, elect that the appeal of the final order or judgment be heard by the District Court in the manner set forth in 28 U.S.C. § 158(c)(1) and Bankruptcy Rule 8001(e).

(b) The requirements for the contents of the appellate briefs in a case in which a party contends that the Bankruptcy Court lacked authority to enter a final order or judgment are set forth in B.L.R. 8010-2.

Commentary

Because the Bankruptcy Court decides whether it has authority to enter a final order or judgment, or whether it must submit proposed findings of fact and conclusions of law to the District Court, there will be instances in which the Bankruptcy Court will enter judgment in a case in which a party contends that the Bankruptcy Court had authority only to submit proposed findings and conclusions. This rule is intended to clarify two points about how the parties should proceed in such a case. First, the party seeking review must proceed by filing a notice of appeal, because that is the proper process for obtaining review of an order or judgment, even where the party seeking review believes that the Bankruptcy Court did not have authority to enter the order or judgment. Second, to preserve any right to de novo review by an Article III court, a party must elect to have the appeal heard by the District Court, rather than by the Bankruptcy Appellate Panel. Under District Court General Order 24 (May 15, 2012), if the District Court agrees that the Bankruptcy Court should have issued proposed findings and conclusions, it can treat the decision of the Bankruptcy Court as proposed findings and conclusions subject to de novo review. *Executive Benefits Ins. Agency, Inc. v. Arkinson (In re Bellingham Ins. Agency, Inc.)*, 134 S. Ct. 2165, 573 U.S. __, 189 L.Ed. 2d 83 (2014). The Bankruptcy Appellate Panel cannot itself provide de novo review under Article III. A party that does not avail itself of the opportunity to obtain de novo review by an Article III court may be found to have waived any right to such review.

800~~79~~-1. Procedure in Bankruptcy Appeals.

~~**(a) Record on Appeal.**~~

~~The record on appeal shall include a transcript of the hearing or a summary thereof agreed upon by all parties.~~

Old (a) was deleted because it is now the subject of Rule 8009(a)(4) and (b).

~~**(b)**~~ **(a) Docketing and Notice.**

Upon receipt of the record on appeal from the Clerk of the Bankruptcy Court, the Clerk of the District Court shall immediately docket it in the case in which the notice of appeal was filed and give notice to all parties to the appeal of the briefing schedule.

~~**(c)**~~ **(b) Dismissal For Failure To Perfect Appeal.**

If the appellant fails to perfect the appeal in the manner prescribed by Bankruptcy Rule 800~~69~~:

a. **Motion by Appellee.** Any appellee may file a motion in the District Court to dismiss the appeal. The motion shall be supported by an affidavit or declaration of counsel for the moving party, setting forth the date and substance of the judgment or order from which the appeal is taken, the date upon which notice of appeal was filed, and the facts showing appellant's failure to perfect the appeal in the manner prescribed by Bankruptcy Rule 800~~69~~.

b. **Recommendation by Bankruptcy Court.** The Bankruptcy Court may, on its own motion, transmit the notice of appeal to the District Court with a recommendation that the appeal be dismissed. The transmittal shall be accompanied by a certificate of the Bankruptcy Judge indicating the reasons for the recommendation. The Clerk of the Bankruptcy Court shall serve copies of the transmittal and the certificate on all parties.

c. Procedure. Upon receipt of a motion under subsection (1) or a recommendation under subsection (2) of this subsection (c), the Clerk of the District Court shall docket the motion in the case previously assigned to the appeal. Unless the assigned District Judge orders otherwise: within 14 days after receiving notice of the assignment to a District Judge, appellant shall file in the District Court a brief of not more than five pages in opposition to dismissal of the appeal; 14 days thereafter, appellee(s) may file a reply brief of not more than five pages; no hearing will be held unless the assigned District Judge orders otherwise.

~~(d)~~ (c) **Other Rules.**

When the Bankruptcy Rules, the FRCivP and the Civil L.R. are silent as to a particular matter of practice on an appeal to the District Court from the Bankruptcy Court, the assigned District Judge may apply the Rules of the United States Court of Appeals for the Ninth Circuit, the FRAppP, and the Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit.

8010~~4~~-1. Briefs.

Unless the assigned District Judge orders otherwise for good cause shown:

(a) The appellant shall serve and file a brief within ~~28~~ 30 days after entry of the appeal on the District Court's docket pursuant to Bankruptcy Rule 8007.

(b) The appellee shall serve and file a brief within ~~21~~ 30 days after service of appellant's brief. If the appellee has filed a cross-appeal, the brief of appellee shall contain the issues and arguments pertinent to the cross-appeal, denominated as such, and the response to the brief of the appellant.

(c) The appellant may serve and file a reply brief within 14 days after service of appellee's brief, and if the appellee has filed a cross-appeal, the appellee may file and serve a reply brief to the response of the appellant to the issues presented in the cross-appeal within 14 days after service of the reply brief of the appellant.

~~**(d)** Briefs shall comply with Bankruptcy Rule 8010; provided however, 50-page and 25-page limits for principal briefs and reply briefs in Bankruptcy Rule 8010(c), respectively, are reduced to 25 pages and 15 pages.~~

Old (d) was deleted because brief format and lengths are now covered in Rule 8015.

~~8010-2~~ 8014-2. Content of Briefs When Appeal Challenges Bankruptcy Court's Authority to Enter Final Order or Judgment.

Where the Bankruptcy Court has entered a final order or judgment, and a party contends that the Bankruptcy Court lacked constitutional or statutory authority to enter that final order or judgment, such party shall file an appeal in the manner specified in B.L.R. ~~8001-2~~ 8004-1, and all parties' briefs to the District Court shall:

(a) contain argument and information addressing whether the Bankruptcy Court had authority to enter the final order or judgment;

(b) contain all argument and information that the brief must contain if it were undisputed that the Bankruptcy Court had authority to enter the final order or judgment; and

(c) satisfy all the requirements of B.L.R. 9033-1, treating the findings of fact and conclusions of law of the Bankruptcy Court as proposed findings of fact and conclusions of law for that purpose.

Commentary

This rule is intended to clarify the issues that the parties must address in their appellate briefs to the District Court in a case in which the Bankruptcy Court has entered a final order or judgment, and a party contends on appeal that the Bankruptcy Court had authority only to submit proposed findings of fact and conclusions of law to the District Court. The briefs must address whether the Bankruptcy Court had authority to enter the order or judgment. The briefs must also address how the appeal should be resolved if the District Court determines that the Bankruptcy Court did have authority to enter the order or judgment. That is, the briefs must address whether the order or judgment should be affirmed under traditional standards of appellate review. Finally, the briefs must also address how the appeal should be resolved if the District Court determines that the Bankruptcy Court had authority only to submit proposed findings of fact and conclusions of law. In other words, the parties must satisfy all requirements that would apply if the Bankruptcy Court had submitted proposed findings of fact and conclusions of law to the District Court under B.L.R. -1.

8012~~9~~-1. Oral argument.

Upon completion of the briefing, the assigned District Judge will set a date for oral argument~~, if needed; otherwise~~ unless the judge determines that oral argument is unnecessary as provided in Bankruptcy Rule 8019(b)(1), (2), or (3). In that case the matter will be deemed submitted for decision.

9033-1. Procedure on Bankruptcy Court's Proposed Findings of Fact and Conclusions of Law.

(a) Objections.

Any objection to the proposed findings of fact and conclusions of law or proposed order or judgment made by a Bankruptcy Judge in a non-core proceeding pursuant to 28 U.S.C. §157(c)(1) shall be filed with the Clerk of the Bankruptcy Court and shall state:

(1) The issues raised by the objections;

(2) The specific portion of the proposed findings of fact and conclusions of law or proposed judgment or order to which objection is made; and

(3) Whether the objecting party requests that oral testimony be heard by the District Court, the reason for requesting oral testimony, and the issues on which oral testimony is requested. At the time the objection is filed, the objecting party shall file in the Bankruptcy Court a designation of the record for review, which shall include a transcript of the trial or hearing in the Bankruptcy Court.

(b) Response to Objections.

Any response to the objection referred to in subparagraph (a) shall be filed with the Clerk of the Bankruptcy Court and shall state:

(1) Whether oral testimony should be heard by the District Court; and

(2) The issues on which oral testimony should be heard. At the time the response is filed, the responding party shall file any additional designations of the record for review.

(c) Procedure on Objection.

If an objection is filed, the Clerk of the Bankruptcy Court shall, within 28 days after the time for filing a response has expired, transmit the proposed findings of fact and conclusions of law and proposed order or judgment, together with the objections, response, transcript and record, to the Clerk of the District Court, who shall assign the matter to a District Judge pursuant to the District Court's Assignment Plan. The Clerk of the District Court shall promptly notify the parties of the name of the assigned District Judge and the District Court case number assigned to the matter. No hearing will be held unless the assigned District Judge orders otherwise,

(d) Procedure Absent Objection.

If no objection is filed within the time specified, unless otherwise ordered by the Bankruptcy Court, the Clerk of the Bankruptcy Court shall transmit the proposed findings of fact and conclusions of law and proposed order or judgment to the Clerk of the District Court, with a certificate that no objection has been filed and a request that the proposed findings of

fact, conclusions of law, and order or judgment be assigned to the General Duty Judge, who may take such action on the proposed findings of fact and conclusions of law and proposed order and judgment as the General Duty Judge deems appropriate, including disposition as a default matter without further notice or hearing.

~~**(e) Incomplete or Defective Objections.**~~

~~If an objection is filed within the time specified which does not comply substantially with this rule, the Bankruptcy Judge who issued the proposed findings, conclusions, order or judgment may issue a recommendation that the matter be treated as if no objection had been filed as described in the preceding paragraph. The Clerk of the Bankruptcy Court shall transmit this recommendation to the Clerk of the District Court together with the proposed findings of fact and conclusions of law and proposed order or judgment, and a request that the matter be assigned to the General Duty Judge. The Clerk of the Bankruptcy Court shall serve a copy of the recommendation on all parties to the proceeding at the time of the transmittal. The General Duty Judge may either act on the recommendation and the proposed findings, conclusion and order or judgment after such further notice and proceedings as the General Duty Judge determines to be appropriate, or may direct the Clerk of the District Court to assign the matter to a District Judge pursuant to the District Court's Assignment Plan for such further proceedings as the assigned District Judge determines to be appropriate.~~